



House of Representatives

General Assembly

File No. 462

February Session, 2016

Substitute House Bill No. 5311

House of Representatives, April 5, 2016

The Committee on Energy and Technology reported through REP. REED of the 102nd Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

**AN ACT CONCERNING TELECOMMUNICATIONS PROVIDER
TARIFFS FOR SERVICES OFFERED TO BUSINESS RETAIL END
USERS AND CERTAIN TELECOMMUNICATIONS SERVICE-RELATED
REPORTS.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 16-247f of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective from passage*):

3 (a) The authority shall regulate the provision of telecommunications
4 services in the state in a manner designed to foster competition and
5 protect the public interest.

6 (b) Notwithstanding the provisions of section 16-19, the following
7 telecommunications services shall be deemed competitive services: (1)
8 A telecommunications service offered on or before July 1, 1994, by a
9 certified telecommunications provider and a wide area telephone
10 service, "800" service, centrex service or digital centrex service offered
11 by a telephone company, (2) a telecommunications service offered to
12 business customers by a telephone company, (3) a home office service

13 offered by a telephone company, and (4) a telecommunications service
14 provided by a telephone company to a residential customer who
15 subscribes to two or more telephone company services, including basic
16 local exchange service, any vertical feature or interstate toll provided
17 by a telephone company affiliate. Unless reclassified pursuant to this
18 section, any other service offered by a telephone company on or before
19 July 1, 1994, shall be deemed a noncompetitive service, provided such
20 initial classification shall not be a factual finding that such service is
21 noncompetitive. Notwithstanding subdivision (3) of subsection (c) of
22 section 16-247b, prior to January 1, 2010, a telephone company shall
23 not obtain a waiver from the authority of the pricing standard set forth
24 in subdivision (1) of subsection (c) of section 16-247b for any service
25 reclassified as competitive pursuant to subdivision (2), (3) or (4) of this
26 subsection.

27 (c) On petition, on its own motion, or in conjunction with a tariff
28 investigation conducted pursuant to subsection (f) of this section, after
29 notice and hearing, and within ninety days of receipt of a petition or its
30 motion or within the time period set forth in subsection (f) of this
31 section, as applicable, the authority may reclassify a
32 telecommunications service as competitive, emerging competitive or
33 noncompetitive, in accordance with the degree of competition which
34 exists for that service in the marketplace, provided (1) a competitive
35 service shall not be reclassified as an emerging competitive service,
36 and (2) the authority may extend the period (A) before the end of the
37 ninety-day period and upon notifying all parties to the proceedings by
38 thirty days, or (B) in accordance with the provisions of subsection (f) of
39 this section, as applicable.

40 (d) In determining whether to reclassify a telecommunications
41 service, the authority shall consider:

42 (1) The number, size and geographic distribution of certified
43 telecommunications providers of the service, provided the authority
44 shall not reclassify any service as competitive if such service is
45 available only from a telephone company or an affiliate of a telephone

46 company that is a certified telecommunications provider;

47 (2) The availability of functionally equivalent services in the
48 relevant geographic area at competitive rates, terms and conditions,
49 including, but not limited to, services offered by certified
50 telecommunications providers, providers of commercial mobile radio
51 services, as defined in 47 CFR 20.3, voice over Internet protocol
52 providers and other services provided by means of alternative
53 technologies;

54 (3) The existence of barriers to entry into, or exit from, the relevant
55 market;

56 (4) Other factors that may affect competition; and

57 (5) Other factors that may affect the public interest.

58 (e) [Each] Except for those tariffs for services offered or provided to
59 business retail end users for which a certified telecommunications
60 provider or a telephone company elects to be exempt from filing or
61 maintaining pursuant to subsection (h) of this section, each certified
62 telecommunications provider and each telephone company shall file
63 with the authority a new or amended tariff for each competitive or
64 emerging competitive intrastate telecommunications service
65 authorized pursuant to section 16-247c. A tariff for a competitive
66 service shall be effective on five days' written notice to the authority. A
67 tariff for an emerging competitive service shall be effective on
68 twenty-one days' written notice to the authority. A tariff filing for a
69 competitive or emerging competitive service shall include (1) rates and
70 charges which may consist of a maximum rate and a minimum rate, (2)
71 applicable terms and conditions, (3) a statement of how the tariff will
72 benefit the public interest, and (4) any additional information required
73 by the authority. A telephone company filing a tariff pursuant to this
74 section shall include in said tariff filing the information set forth in
75 subdivisions (1) to (4), inclusive, of this subsection, a complete
76 explanation of how the company is complying with the provisions of
77 section 16-247b and, in a tariff filing which declares a new service to be

78 competitive or emerging competitive, a statement addressing the
79 considerations set forth in subsection (d) of this section. If the authority
80 approves a tariff which consists of a minimum rate and a maximum
81 rate, the certified telecommunications provider or telephone company
82 may amend its rates upon five days' written notice to the authority and
83 any notice to customers which the authority may require, provided the
84 amended rates are not greater than the approved maximum rate and
85 not less than the approved minimum rate. A promotional offering for a
86 previously approved competitive or emerging competitive tariffed
87 service or a service deemed competitive pursuant to this section shall
88 be effective on three business days' written notice to the authority.

89 (f) On petition or its own motion, the authority may investigate a
90 tariff or any portion of a tariff, which investigation may include a
91 hearing. The authority may suspend a tariff or any portion of a tariff
92 during such investigation. The investigation may include, but is not
93 limited to, an inquiry to determine whether the tariff is predatory,
94 deceptive, anticompetitive or violates the pricing standard set forth in
95 subdivision (1) of subsection (c) of section 16-247b. Not later than
96 seventy-five days after the effective date of the tariff, unless the party
97 filing the tariff, all statutory parties to the proceeding and the authority
98 agree to a specific extension of time, the authority shall issue its
99 decision, including whether to approve, modify or deny the tariff. If
100 the authority determines that a tariff filed as a new service is, in fact, a
101 reclassification of an existing service, the authority shall review the
102 tariff filing as a petition for reclassification in accordance with the
103 provisions of subsection (c) of this section.

104 (g) The provisions of this section shall not prohibit the authority
105 from ordering different tariff filing procedures or effective dates for an
106 emerging competitive service, pursuant to a plan for an alternative
107 form of regulation of a telephone company approved by the authority
108 in accordance with the provisions of section 16-247k.

109 (h) On and after July 1, 2016, any certified telecommunications
110 provider or telephone company may, upon written notice to the

111 authority, elect to be exempt from any requirement to file or maintain
112 with the authority any tariff for services offered or provided to
113 business retail end users. A certified telecommunications provider or
114 telephone company that elects to be exempt from the requirement to
115 file or maintain with the authority any tariff for services offered or
116 provided to business retail end users shall make the rates, terms and
117 conditions for such services available to business retail end users in a
118 customer service guide or in such other manner as determined by such
119 certified telecommunications provider or telephone company.

120 Sec. 2. Subsection (a) of section 16-18a of the general statutes is
121 repealed and the following is substituted in lieu thereof (*Effective from*
122 *passage*):

123 (a) In the performance of their duties the Public Utilities Regulatory
124 Authority and the Office of Consumer Counsel may retain consultants
125 to assist their staffs in proceedings before the authority by providing
126 expertise in areas in which staff expertise does not currently exist or
127 when necessary to supplement existing staff expertise. In any case
128 where the authority or Office of Consumer Counsel determines that
129 the services of a consultant are necessary or desirable, the authority
130 shall (1) allow opportunity for the parties and participants to the
131 proceeding for which the services of a consultant are being considered
132 to comment regarding the necessity or desirability of such services, (2)
133 upon the request of a party or participant to the proceeding for which
134 the services of a consultant are being considered, hold a hearing, and
135 (3) limit the reasonable and proper expenses for such services to not
136 more than two hundred thousand dollars for each agency per
137 proceeding involving a public service company, telecommunications
138 company, electric supplier or person seeking certification to provide
139 telecommunications services pursuant to chapter 283, with more than
140 fifteen thousand customers, and to not more than fifty thousand
141 dollars for each agency per proceeding involving such a company,
142 electric supplier or person with less than fifteen thousand customers,
143 provided the authority or the Office of Consumer Counsel may exceed
144 such limits for good cause. In the case of multiple proceedings

145 conducted to implement the provisions of this section and sections
146 16-1, 16-19, 16-19e, 16-22, 16-247a to 16-247c, inclusive, as amended by
147 this act, 16-247e to [16-247i] 16-247h, inclusive, 16-247k and subsection
148 (e) of 16-331, the authority or the Office of Consumer Counsel may
149 exceed such limits, but the total amount for all such proceedings shall
150 not exceed the aggregate amount which would be available pursuant
151 to this section. All reasonable and proper expenses, as defined in
152 subdivision (3) of this section, shall be borne by the affected company,
153 electric supplier or person and shall be paid by such company, electric
154 supplier or person at such times and in such manner as the authority
155 or the Office of Consumer Counsel directs. All reasonable and proper
156 costs and expenses, as defined in subdivision (3) of this section, shall
157 be recognized by the authority for all purposes as proper business
158 expenses of the affected company, electric supplier or person. The
159 providers of consultant services shall be selected by the authority or
160 the Office of Consumer Counsel and shall submit written findings and
161 recommendations to the authority or the Office of Consumer Counsel,
162 as the case may be, which shall be made part of the public record.

163 Sec. 3. Section 16-247a of the general statutes is repealed and the
164 following is substituted in lieu thereof (*Effective from passage*):

165 (a) Due to the following: Affordable, high quality
166 telecommunications services that meet the needs of individuals and
167 businesses in the state are necessary and vital to the welfare and
168 development of our society; the efficient provision of modern
169 telecommunications services by multiple providers will promote
170 economic development in the state; expanded employment
171 opportunities for residents of the state in the provision of
172 telecommunications services benefit the society and economy of the
173 state; and advanced telecommunications services enhance the delivery
174 of services by public and not-for-profit institutions, it is, therefore, the
175 goal of the state to (1) ensure the universal availability and accessibility
176 of high quality, affordable telecommunications services to all residents
177 and businesses in the state, (2) promote the development of effective
178 competition as a means of providing customers with the widest

179 possible choice of services, (3) utilize forms of regulation
180 commensurate with the level of competition in the relevant
181 telecommunications service market, (4) facilitate the efficient
182 development and deployment of an advanced telecommunications
183 infrastructure, including open networks with maximum
184 interoperability and interconnectivity, (5) encourage shared use of
185 existing facilities and cooperative development of new facilities where
186 legally possible, and technically and economically feasible, and (6)
187 ensure that providers of telecommunications services in the state
188 provide high quality customer service and high quality technical
189 service. The authority shall implement the provisions of this section,
190 sections 16-1, 16-18a, as amended by this act, 16-19, 16-19e, 16-22, 16-
191 247b, 16-247c, 16-247e to [16-247i] 16-247h, inclusive, and 16-247k and
192 subsection (e) of section 16-331 in accordance with these goals.

193 (b) As used in sections 16-247a to 16-247c, inclusive, as amended by
194 this act, 16-247e to [16-247i] 16-247h, inclusive, 16-247k, and sections
195 16-247m to 16-247r, inclusive:

196 (1) "Affiliate" means a person, firm or corporation which, with
197 another person, firm or corporation, is under the common control of
198 the same parent firm or corporation.

199 (2) "Competitive service" means (A) a telecommunications service
200 deemed competitive in accordance with the provisions of section 16-
201 247f, as amended by this act, (B) a telecommunications service
202 reclassified by the authority as competitive in accordance with the
203 provisions of section 16-247f, as amended by this act, or (C) a new
204 telecommunications service provided under a competitive service
205 tariff accepted by the authority, in accordance with the provisions of
206 section 16-247f, as amended by this act, provided the authority has not
207 subsequently reclassified the service set forth in subparagraph (A), (B)
208 or (C) of this subdivision as noncompetitive pursuant to section [16-
209 47f] 16-247f, as amended by this act.

210 (3) "Emerging competitive service" means (A) a telecommunications
211 service reclassified as emerging competitive in accordance with the

212 provisions of section 16-247f, as amended by this act, or (B) a new
213 telecommunications service provided under an emerging competitive
214 service tariff accepted by the authority, in accordance with the
215 provisions of section 16-247f, as amended by this act, or of a plan for
216 an alternative form of regulation approved pursuant to section 16-
217 247k, provided the authority has not subsequently reclassified the
218 service set forth in subparagraph (A) or (B) of this subdivision as
219 competitive or noncompetitive pursuant to section 16-247f, as
220 amended by this act.

221 (4) "Noncompetitive service" means (A) a telecommunications
222 service deemed noncompetitive in accordance with the provisions of
223 section 16-247f, as amended by this act, (B) a telecommunications
224 service reclassified by the authority as noncompetitive in accordance
225 with the provisions of section 16-247f, as amended by this act, or (C) a
226 new telecommunications service provided under a noncompetitive
227 service tariff accepted by the authority, in accordance with the
228 provisions of section 16-19, and any applicable regulations, or of a plan
229 for an alternative form of regulation approved pursuant to section 16-
230 247k, provided the authority has not subsequently reclassified the
231 service set forth in subparagraph (A), (B) or (C) of this subdivision as
232 competitive or emerging competitive pursuant to section 16-247f, as
233 amended by this act.

234 (5) "Private telecommunications service" means any
235 telecommunications service which is not provided for public hire as a
236 common carrier service and is utilized solely for the
237 telecommunications needs of the person that controls such service and
238 any subsidiary or affiliate thereof, except for telecommunications
239 service which enables two entities other than such person, subsidiary
240 or affiliate to communicate with each other.

241 (6) "Telecommunications service" means any transmission in one or
242 more geographic areas (A) between or among points specified by the
243 user, (B) of information of the user's choosing, (C) without change in
244 the form or content of the information as sent and received, (D) by

245 means of electromagnetic transmission, including but not limited to,
 246 fiber optics, microwave and satellite, (E) with or without benefit of any
 247 closed transmission medium, and (F) including all instrumentalities,
 248 facilities, apparatus and services, except customer premises
 249 equipment, which are used for the collection, storage, forwarding,
 250 switching and delivery of such information and are essential to the
 251 transmission.

252 (7) "Network elements" means "network elements", as defined in 47
 253 USC 153(a)(29).

254 Sec. 4. Section 16-247j of the general statutes is repealed and the
 255 following is substituted in lieu thereof (*Effective from passage*):

256 The Public Utilities Regulatory Authority shall adopt such
 257 regulations, in accordance with the provisions of chapter 54, as
 258 necessary to carry out the provisions of section 16-247c and sections
 259 16-247f to [16-247i] 16-247h, inclusive, as amended by this act.

260 Sec. 5. Section 16-247i of the general statutes is repealed. (*Effective*
 261 *from passage*)

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	16-247f
Sec. 2	<i>from passage</i>	16-18a(a)
Sec. 3	<i>from passage</i>	16-247a
Sec. 4	<i>from passage</i>	16-247j
Sec. 5	<i>from passage</i>	Repealer section

ET Joint Favorable Subst.

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact: None

Municipal Impact: None

Explanation

The bill, which allows any certified telecommunications provider or telephone company to choose to be exempt from filing and maintain tariffs with the Public Utilities Regulatory Authority (PURA) for services offered or provided to business retail end users, has no fiscal impact to the state or municipalities.

The Out Years

State Impact: None

Municipal Impact: None

OLR Bill Analysis**sHB 5311****AN ACT CONCERNING TELECOMMUNICATIONS PROVIDER TARIFFS FOR SERVICES OFFERED TO BUSINESS RETAIL END USERS AND CERTAIN TELECOMMUNICATIONS SERVICE-RELATED REPORTS.****SUMMARY:**

Beginning July 1, 2016, this bill allows any certified telecommunications provider or telephone company to choose to be exempt from requirements that it file and maintain tariffs (see BACKGROUND) with the Public Utilities Regulatory Authority (PURA) for services offered or provided to business retail end users. Under the bill, companies electing to be exempt must (1) submit written notice to PURA and (2) make their rates, terms, and conditions for those services available to business retail end users in a customer guide or other manner determined by the company.

The bill also eliminates PURA's annual report on the status of telecommunications service and regulation in the state and a related requirement that telephone companies provide PURA with certain information for the report.

EFFECTIVE DATE: Upon passage

PURA'S TELECOMMUNICATIONS REPORT***Report Contents***

The bill eliminates a requirement that PURA report annually by January 1 to the Energy and Technology Committee on the status of telecommunications service and regulation in the state. Under current law, the report must include:

1. an analysis of, and any changes in, universal service;

2. an analysis of any impact of competition in the state's telecommunications industry, including employment opportunities and the state's workforce;
3. an analysis of the level of regulation required by the public interest;
4. the status of (a) implementing statutory requirements related to telecommunication service regulation, competition, network unbundling, and protection of the public interest, (b) achieving the state's goals regarding telecommunication services; and (c) implementation of alternate forms of regulation for telephone companies;
5. the status of the development of competition for all telecommunications infrastructure in the state;
6. the status of the deployment of telecommunications infrastructure in the state; and
7. the status of the Southern New England Telephone Company's sale of unused hybrid fiber coaxial facilities. (This requirement appears to be obsolete.)

Telephone Company Requirements

The bill eliminates a requirement that PURA, in compiling information for its report, require each telephone company to annually provide information on:

1. its aggregate number of access lines, other than resold lines or other wholesale lines;
2. the annual change in its number of access lines over the previous five years;
3. the number of active wholesale customers the company serves and the nature of the wholesale services;

4. the number of wholesale service requests and the time it takes for the company to respond to them;
5. the impact of competition on the company's workforce;
6. the state of the industry, industry trends, and competitive alternatives available in the market, including technological changes affecting the market; and
7. the number of competitive local exchange carriers.

BACKGROUND

Telecommunications Services Tariffs

The law generally requires certified telecommunications providers and telephone companies to file tariffs with PURA for each competitive service offered by the company. The tariff filing must include:

1. rates and charges, including maximum and minimum rates;
2. applicable terms and conditions;
3. a statement of how the tariff will benefit the public interest; and
4. any additional information PURA requires.

Among other things, the law allows PURA to approve, investigate, or suspend tariffs under certain circumstances. PURA may also require notice to customers for rate changes for services subject to a tariff.

COMMITTEE ACTION

Energy and Technology Committee

Joint Favorable Substitute

Yea 24 Nay 0 (03/17/2016)